IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 165 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

CHALTHAN VIBHAG UDYOG KHAND SAHAKARI MANDLI LTD.

Appearance:

1. INCOME TAX REFERENCE No. 165 of 1994
MR MIHIR H JOSHI with MR MANISH R BHATT for Petitioner
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 07/11/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the Income-tax Appellate Tribunal has referred the following question for our opinion in respect of assessment years 1979-80 to 1981-82 :-

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the assessee is entitled to deduction u/s. 80P(2)(a)(i) and u/s.80P(2)(d) of I.T. Act, 1961 ?"

2. We have heard Mr Mihir H Joshi, learned counsel for the revenue. Though served, none appears for the respondent-assessee.

3. Our attention is invited to the decision of this Court in the case of this very assessee reported in (2000) 244 ITR 557 wherein identical question was raised before this Court. After hearing the learned counsel for the parties in that reference, this Court answered the question in favour of the revenue and against the assessee.

4. Following the aforesaid decision, we also answer the question referred in this reference in the negative i.e. in favour of the revenue and against the assessee.

5. The reference stands disposed of accordingly with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-